लेकिन जितना कोयले का उत्पादन हो रहा है, उसकी क्वालिटी को हम अभी तक उतना इम्प्रूव नहीं कर पाए हैं, जितना हमें इम्प्रूव करना चाहिए। इसी उद्देश्य से कोल इंडिया ने यह फैसला लिया है कि हम 20 न्यू वाशरीज़ लगाकर कोयले की क्वालिटी को ज्यादा से ज्यादा इम्प्रूव करें। इसके अलावा भी बहुत सी दिक्कतें हमारे सामने हैं, जैसे कि एक हजार किलोमीटर के अंदर हमें जितना भी कोयला सप्लाई करना होता है, उसका एक नार्म बना हुआ है कि अगर इससे ज्यादा ऐश कंटेंट होगा, तो हम उस कोयले का मूवमेंट नहीं कर सकते हैं। इसके लिए जरूरी है कि हम कोयले की क्वालिटी को इम्प्रूव करें। हम माननीय सदस्य को आश्वस्त करते हैं कि आने वाले समय में इन वाशरीज के माध्यम से तथा जो वॉशरीज आलरेडी लगी हुई हैं, हम उनके माध्यम से कोयले की क्वालिटी को इम्प्रूव करने का प्रयास करेंगे।

*344. [The questioner(s) Shrimati Syeda Anwara Taimur, Shri Vijay Jawaharlal Darda were absent. For answer vide page 21 infra.]

National Judicial Commission

*345. SHRI P. RAJEEVE: Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether Government has any plan to constitute a National Judicial Commission for the appointment of Judges; and

(b) if so, the details thereof and if not, the reasons therefor?

THE MINISTER OF LAW AND JUSTICE (SHRI M. VEERAPPA MOILY): (a) and (b) A Statement is laid on the Table of the House.

Statement

(a) No, Sir.

(b) The existing procedure for appointment of Judges of the Supreme Court & High Courts is based on the Supreme Court Judgment of October 6, 1993 in the case of Supreme Court Advocates on Record & Anr. Vs. Union of India read with the Advisory Opinion of the Supreme Court dated October 28, 1998. There is no proposal at present before the Government to reconsider this procedure.

SHRI P. RAJEEVE: Sir, in the answer, the hon. Minister has stated that the appointment of judges is based on the Supreme Court Judgement. Now, there is no mention of collegium in the Constitution of our country. With the pronouncement of this judgement, the judiciary has taken upon itself the responsibility of the Executive in the matter of appointment of judges. After this, there have been many complaints regarding malpractice and non-transparency. So, I would like to know from the hon. Minister the opinion of the Government as to whether the existing system of appointment of judges is sufficient enough to protect the credibility and transparency of the judicial system of our country.

SHRI M. VEERAPPA MOILY: Mr. Chairman, Sir, the matter regarding appointment and transfer of judges has been dealt with by various Governments, right from the year 1990. The National Judicial Commission Bill was introduced in 1990, and that lapsed. Again, another Bill, for

constitution of the National Judicial Commission, was introduced in 1993. That also lapsed. Then, subsequently, the Majority Judgement of 1993 altered the meaning of 'Expression of Consultation'. Thereafter, two judgements have come out from the Supreme Court of India, and a Memorandum of Procedure was drawn. Now, from 1998 onwards, the present system of appointment and transfer of judges is being followed. I can say, on the floor of the House, today that there are drawbacks, with regard to accountability and with regard to objectivity, while selecting judges. This has surfaced, from time to time. Of course, no system, at any point of time, will be perfect. There are bound to be differences. This is a matter which is engaging the attention of the Government, and we need to tackle it. While recognising the fundamental fact that judiciary should be independent, in case of a judiciary without accountability, this independence has no meaning. These are the issues on which I would like to take the House into confidence. We need to take the Judiciary into confidence. Maybe, we need to revisit some of these things in the light of several developments which have taken place.

SHRI P. RAJEEVE: Sir, while replying to my supplementary, the hon. Minister has mentioned about accountability of the judicial system. Now, *

MR. CHAIRMAN: That is not the supplementary.

SHRI P. RAJEEVE: Sir, this introduction is necessary to get into my supplementary. Ordinarily, when an inquiry takes place on any serious charges against an officer, that officer is suspended from discharging his official duties. If, *

MR. CHAIRMAN: No, please. That is not the supplementary. You stick to your supplementary.

SHRI P. RAJEEVE: In the cases of Justice Ramaswamy and four judges of the Bombay High Court, the then Chief Justice of India denied assigning duties to them. I would like to know from the hon. Minister whether the Government has taken any initiative, such as discussions with the Chief Justice of India, etc., to protect the credibility of our judicial system.

SHRI M. VEERAPPA MOILY: Sir, I think, it may not be that appropriate to take the name of any judges here...

MR. CHAIRMAN : Correct.

SHRI M. VEERAPPA MOILY: We are on a system, and I think, many a time, the system will take care of many of the problems. That is what we are at. In so far as accountability is concerned, Sir, you are well aware that there is the Judges (Inquiry) Act of 1968. It is now felt that it needs to be revisited. We have already applied our mind to it. We are thinking of bringing out the Judges (Standard and Accountability) Bill to replace the Judges (Inquiry) Act. If that formula comes forward, then, many of the problems, which we see around, will get rectified. No person with shady character can become a judge. That is number one. We can stop that immediately. After any person becomes a judge, I don't think he can afford to commit any act of commission or omission. It can be

addressed at any point of time. That is why I had thought of bringing forward a Bill in this Session. Maybe, I will be able to bring it forward in the last days of the Session. Once it is approved by the Cabinet, we are thinking of bringing it forward in Parliament. That will meet many of the questions of accountability and objectivity with regard to the functioning of the Judiciary.

SHRI ARUN JAITLEY: Sir, India is one of the few countries in the world where judges appoint judges. The Executive has a participatory role but, *de facto*, the Executive has very little, if almost no, say. There is one separate debate going on as to who should have the last word in the appointment of judges, whether it should be the Executive or the Judiciary or the National Judicial Commission.

Is the Law Minister willing to consider a system where, by legislation, a criterion is laid down so that what constitutes merit in the matter of appointment of judges is now statutorily defined and it becomes necessary for the appointing authority or the recommending authority to take that criterion of merit into consideration before appointing a judge, rather than leaving it entirely to the subjective decision of the recommending authority?

SHRI M. VEERAPPA MOILY: Mr. Chairman, Sir, there are two aspects of this question. One is whether the present mechanism of appointment of judges should continue or not. If not, we need to revisit it. I think when you revisit it, you will find that the mechanism has its own parameters and the criteria for appointment of judges. I do agree with the hon. Leader of the Opposition that it is only in India that judges appoint themselves. That system is not available anywhere else. But we would not like to get into any confrontation with the Judiciary. We would like to take the Judiciary into confidence, absolutely, so that any systemic improvement has its agreement or convergence of views of the Judiciary and all the other stakeholders.

PROF. P. J. KURIEN: Sir, when the hon. Minister of Law headed the Administrative Reforms Commission, I believe he had given a report wherein he had recommended the constitution of a Judicial Commission. Now, why is this change in position? Now, being the Minister, he says that the Government is not considering the establishment of a Judicial Commission. That is the answer I have got here. I want to say that the whole House agrees that the appointment of a Judicial Commission is of paramount importance because we have been hearing of so many allegations. Newspapers are full of reports of such allegations. Why don't you consider the appointment of a Judicial Commission seriously?

SHRI SITARAM YECHURY: Do you mean to say that he should implement his own recommendation?

PROF. P. J. KURIEN: That is what I am saying.

SHRI M. VEERAPPA MOILY: Mr. Chairman, Sir, there are *avataars* and *avataars*. From one incarnation to another, we get into the regime of creative discussion. I think the honourable senior colleague, Dr. Karan Singh, will agree with me on this concep. I never said that I would not implement the recommendation. I said that we had to revisit it; and when we revisit the entire process, we need to apply our mind; definitely, the whole system wiil have to be insulated with some objectivity. This is what the country looks forward to; this is what the jurists look forward to and that is what the House looks forward to. I think the Government will not disappoint any one of you.

श्री महेन्द्र मोहन : सभापति महोदय, मैं माननीय मंत्री जी से यह कहना चाहता हूं कि इस देश के अन्दर आए दिन यह सुना जाता है कि जजों की कमी के कारण जस्टिस नहीं मिल पा रही है, क्योंकि जो केसेज़ हैं, उनकी pendency बहुत अधिक चल रही है। जब तक सही सिस्टम बना कर जजों की vacancies नहीं भरी जाती हैं, तब तक जस्टिस नहीं मिल पाएगी। यहां पर "Justice delayed is justice denied" है। मैं यह जानना चाहूंगा कि ऐसा समय कब आएगा कि यहां जजों की नियुक्ति समय पर कर दी जाएगी और किस प्रकार से केसों का निस्तारण हो, इसके लिए एक समय सीमा बांधी जाएगी कि किसी भी मुकदमे का निस्तारण इतनी समय सीमा के अन्दर होना चाहिए? अभी मुकदमों को pending डाल दिया जाता है, मुकदमों के कारण लड़ाई-झगड़े होते हैं और इनको लेकर मौत तक भी हो जाती है। मैं यह जानना चाहूंगा कि वे कब सारी vacancies भरेंगे? आप कोई ऐसा procedure बनाएं, ऐसा time frame दें और समय सीमा बनाएं कि सारे जजों की नियुक्ति हो और काम आगे बढ़े।

SHRI M. VEERAPPA MOILY: Mr. Chairman, Sir, according to the procedures laid down, whenever any vacancies have fallen vacant, it is incumbent on the part of the Chief Justice or the Collegium of the respective High Court to send the proposal to the Government for a proper processing. This is not happening, unfortunately. This needs to be addressed. There are a number of vacancies. I have addressed a number of letters to all the Chief Justices of various High Courts to expedite this process. This was also discussed in the meeting of the Chief Ministers and also of the Chief Justices. This was also discussed in the National Consultation on 24th and 25th October. I think, now; things have started moving. I do not say it is very satisfactory. I think, within four or five months, we would like to level up the ground.

Power generation targets

*346. SHRI MAHMOOD A. MADANI:
SHRI SANTOSH BAGRODIA:

Will the Minister of POWER be pleased to state:

(a) the target of additional power generation for the current Five Year Plan period, year-wise;

(b) the annual target of contribution from the Central State and private sector power generation facilities;

(c) the details of the actual addition made in power generation during the first two years of the Plan period;